



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/575,768

04/12/2006

Gero Nenninger

10191/4217

3790

26646 7590 07/28/2008

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

NGUYEN, CHUONG P

ART UNIT

PAPER NUMBER

3663

MAIL DATE

DELIVERY MODE

07/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/575,768	Applicant(s) NENNINGER ET AL.	
	Examiner Chuong P. Nguyen	Art Unit 3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-26 is/are pending in the application.
- 4a) Of the above claim(s) 22-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of invention 1, species A1, and species *a* in the reply filed on 04/28/2008 is acknowledged. However, Applicant did not state any traversal reasons. Thus, the election is being treated as election **without** traverse.
2. Claims 22-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 04/28/2008.

In addition, Examiner had identified that the election/restriction requirement of species A1 in the 03/28/2008 Office Action is improper; therefore, election/restriction requirement of species A1 is hereby withdrawn.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 14-16 and 20-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Ehlbeck et al (US 6,498,976).

Regarding claim 14, Ehlbeck et al disclose in Fig 1 & 3 a method for rollover stabilization of a vehicle in a critical driving situation, comprising: ascertaining a mass of the vehicle (i.e. from vehicle mass determinator 12) (col 2, line 36+; col 7, line 58+; col 15, line 1 – col 16, line 45); and executing a rollover stabilization algorithm as a function of the mass of the

Art Unit: 3663

vehicle, the rollover stabilization algorithm intervening in a driver operation in a critical situation using an actuator in order to stabilize the vehicle (Abstract; col 5, lines 12-45; col 15-20; col 21, lines 49-63).

Regarding claim 15, Ehlbeck et al disclose in Fig 1 & 3 the mass of the vehicle is estimated using an algorithm (i.e. from vehicle mass determinator 12) (col 15, line 1 – col 16, line 45).

Regarding claim 16, Ehlbeck et al disclose in Fig 1, 3, & 4 the step of estimating information on a center of gravity of the vehicle (i.e. from critical acceleration estimator 20) (col 16, line 48 – col 18, line 47), wherein the rollover stabilization algorithm is executed as a function of the vehicle mass and the information on the center of gravity of the vehicle (col 7, line 56 – col 8, line 36; col 15-20).

Regarding claim 20, Ehlbeck et al disclose in Fig 1, 7, & 9 one of an indicator variable or a characteristic property of the rollover stabilization algorithm is determined as a function of one of the mass of the vehicle or the mass of the vehicle and information on the center of gravity of the vehicle, the release of deactivation of the stabilization intervention being a function of the indicator variable (i.e. indicator 58 in conjunction with roll stability advisor 50, critical acceleration estimator 20, and vehicle mass determinator 12) (col 9, line 19 – col 10, line 46; col 18, line 50 – col 23, line 24)

Regarding claim 21, Ehlbeck et al disclose in Fig 1, 3, 4, & 6 one of a control threshold value, a system deviation or a controlled variable of the rollover stabilization algorithm is determined as a function of one of the mass of the vehicle or the mass of the vehicle and the information on the center of gravity of the vehicle (col 15-20).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ehlbeck et al as applied to claim 16 above, and further in view of Schramm et al (IDS reference – US 6,324,447).

Regarding claim 17, Ehlbeck et al disclose the invention except for the information on the center of gravity of the vehicle is derived from an estimated characteristic speed. Schramm et al teach in the same field of endeavor in Fig 4 such information on the center of gravity (i.e. height variable h) of the vehicle is derived from an estimated characteristic speed (i.e. vehicle speed vf) (col 12, lines 10-19). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such information on the center of gravity of the vehicle is derived from an estimated characteristic speed as taught by Schramm et al in the

Art Unit: 3663

method of Ehlbeck et al because it does no more than yield predictable results of detecting and stabilizing a vehicle in rollover situation since it has been held that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (MPEP 2143).

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ehlbeck et al as applied to claim 16 above, and further in view of Dunwoody et al (IDS reference – US 5,825,284).

Regarding claim 18, Ehlbeck et al disclose the invention except for the information on the center of gravity of the vehicle is ascertained from a ratio of contact patch forces of opposite wheels during cornering. Dunwoody et al teach in the same field of endeavor in Fig 3 such information on the center of gravity of the vehicle is ascertained from a ratio of contact patch forces of opposite wheels during cornering (i.e. equations (6) & (7)) (Abstract; col 8, line 41 – col 10, line 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such information on the center of gravity of the vehicle is ascertained from a ratio of contact patch forces of opposite wheels during cornering as taught by Dunwoody et al in the method of Ehlbeck et al because it does no more than yield predictable results of detecting and stabilizing a vehicle in rollover situation since it has been held that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (MPEP 2143).

8. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ehlbeck et al modified by Schramm et al as applied to claim 17 above, and further in view of Dunwoody et al.

Regarding claim 19, Ehlbeck et al modified by Schramm et al disclose the information on the center of gravity of the vehicle is ascertained from the estimated characteristic speed (**Schramm et al** – Fig 4; col 12, lines 10-19). Ehlbeck et al modified by Schramm et al do not explicitly disclose the information on the center of gravity of the vehicle is ascertained from the estimated characteristic speed and from a ratio of the contact patch forces of opposite wheels during cornering. Dunwoody et al teach in the same field of endeavor in Fig 3 such information on the center of gravity of the vehicle is ascertained from a ratio of contact patch forces of opposite wheels during cornering (i.e. equations (6) & (7)) (Abstract; col 8, line 41 – col 10, line 65). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate such information on the center of gravity of the vehicle is ascertained from a ratio of contact patch forces of opposite wheels during cornering as taught by Dunwoody et al in the method of Ehlbeck et al modified by Schramm et al because it does no more than yield predictable results of detecting and stabilizing a vehicle in rollover situation since it has been held that the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results (MPEP 2143).

9. While patent drawings are not drawn to scale, relationships clearly shown in the drawings of a reference patent cannot be disregarded in determining the patentability of claims. See In re Mraz, 59 CCPA 866, 455 F.2d 1069, 173 USPQ 25 (1972).

Conclusion

10. The cited prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3663

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuong P. Nguyen whose telephone number is 571-272-3445.

The examiner can normally be reached on M-F, 8:00 - 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CN

/Jack W. Keith/
Supervisory Patent Examiner, Art Unit 3663